

**Testimony on Assembly Bill 105
By Representative Jim Soletski
Assembly Committee on Labor
April 8, 2009**

Madame Chair, thank you for holding a hearing on Assembly Bill 105.

Assembly Bill 105 makes it a prohibited practice under the Municipal Employment Relations Act (MERA) for an employer or an employee to end any grievance arbitration agreement during a contract hiatus and for an employer to end any fair-share agreement during a contract hiatus.

Along with Senator Dave Hansen, I introduced this legislation at the request of Teamsters Local 662 to address a problem that occurred in Brown County. Following two years of bargaining with Brown County, the union and the county went to interest arbitration. After arbitration, the county took away the union's dues check-off. Contracts expired in December 2003. In the summer of 2004, the county took away arbitration rights. During this time, the union was reduced to filing prohibitive practice charges for minor infractions and was left with no ability to protect its members from discharge. Effectively, they were "employees at will" despite being represented. During the time that the dues check-off was suspended and members were required to pay their dues directly to the local union.

The union is attempting to persuade Brown County to recoup the delinquent dues. The county is not cooperating. The suspension of dues check-off and denying grievance arbitration procedures is an unfair attempt at union busting. While placing a hardship on the union, this unfair bargaining advantage over the union does not serve the long term good of the employer, be it the officials in charge or the taxpayers. Dispute resolution is intended to avoid strikes. The loophole that exists only fuels tension between the negotiating parties. Assembly Bill 105 will close that loophole.


Thank you, Madame Chair and members of the committee.



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MEMORANDUM

TO: Honorable Members of the Assembly Committee on Labor

FROM: David Callender, Legislative Associate 

DATE: April 8, 2009

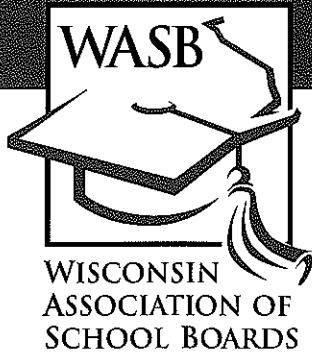
SUBJECT: Opposition for Assembly Bill 105

The Wisconsin Counties Association (WCA) opposes Assembly Bill 105 (AB 105) which requires counties to maintain the grievance process during contract negotiations and continue to abide by fair-share agreements even if a county believes the union is engaged in delaying tactics.

The bill appears to be targeted at one specific situation, but the impact of this legislation would undermine the ability of counties to respond to perceived delays in the collective bargaining process, and could therefore undermine the process of concluding contract negotiations in a timely fashion.

WCA respectfully requests your opposition for Assembly Bill 105.

Thank you for considering our comments. Please contact me if you have any questions.



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JOHN H. ASHLEY, EXECUTIVE DIRECTOR

TO: Members, Assembly Committee on Labor
FROM: Dan Rossmiller, Government Relations Director
DATE: April 8, 2009
RE: **Assembly Bill 105**, relating to arbitration and fair-share agreements during collective bargaining negotiations under the Municipal Employment Relations Act.

The Wisconsin Association of School Boards (WASB) **opposes** Assembly Bill 105.

The current bargaining law—Wisconsin's Municipal Employment Relations Act (MERA)—allows school boards and other local governments to refuse to honor fair-share and grievance arbitration provisions during a contract hiatus, a period during which negotiations over a new contract are underway (i.e., the period after an existing contract expires and before a new contract is ratified).

Assembly Bill 105 would make it a prohibited practice under for an employer or an employee to end any grievance arbitration agreement during a contract hiatus and for an employer to end any fair-share agreement during a contract hiatus.

The WASB is not aware of any problem with school district employers refusing to honor fair-share provisions. When they do it is generally in response to a union failure to perform to the contract.

Occasionally, however, a school district employer will refuse to honor a grievance arbitration provisions during a contract hiatus. Usually, this happens when the alleged contract violation is based on permissive contract language—language the district was not obligated to bargain over in the first place.

In such instances, current law correctly recognizes that once a collective bargaining agreement expires, the parties to that agreement should not be obligated to continue using grievance arbitration procedures to settle disputes over the meaning of the expired agreement. Attention should be focused instead on reaching a new agreement and on resolving any disputed issues at the bargaining table.

If an employer violates contract language that is a mandatory subject of bargaining (i.e., a subject on which the employer has a statutory duty to bargain) during a contract hiatus, under current law the union can contest this violation by filing a prohibited practice complaint under s.111.70 (3)(a)4, Stats. (based on a refusal to bargain).

Such a prohibited practice complaint (based on a refusal to bargain) is not available, however, under current law if the alleged contract violation concerns permissive contract language (i.e., language concerning a subject on which the employer has no statutory duty to bargain). This is because an employer cannot be found guilty of refusing to bargain over a matter it has no duty to bargain in the first place.

Some may try to argue that Assembly Bill 105 opens up a fair avenue for resolving disputes over the meaning of an expired contract. We disagree.

Labor relations between employers and unions are generally self-governing. Generally, the Legislature has respected this. Historically, the "prohibited practices" it has defined under section 111.70(3)(a), Stats., have related to employer actions that impair the free exercise of essential employee rights, such as the right to form, join, or assist labor organizations. When the Legislature expands the scope of "prohibited practices" beyond the traditional boundaries, and defines new employee rights, as it does in Assembly Bill 105, it risks playing "Big Brother" and overstepping its role.

The WASB urges members to **oppose** Assembly Bill 105.